

Office of the Secretary, Interior

§ 2.23

(d) When making a request for expedited processing of an administrative appeal, submit the request to the appropriate deciding official for FOIA appeals.

(e) The bureau must notify you of its decision to grant or deny expedited processing within 10 calendar days of receiving an expedited processing request.

(f) If expedited processing is granted, the request will be given priority, placed in the processing track for expedited requests, and be processed as soon as practicable.

(g) If expedited processing is denied, the bureau will:

(1) Inform you of the basis for the denial, including an explanation of why the expedited processing request does not meet the Department's expedited processing criteria under this section; and

(2) Notify you of the right to appeal the decision on expedited processing in accordance with the procedures in subpart H of this part.

(h) If you appeal the bureau's expedited processing decision, that portion of your appeal (if it is properly formatted under § 2.59) will be processed before appeals that do not challenge expedited processing decisions.

(i) If the bureau has not responded to the request for expedited processing within 10 calendar days, you may file an appeal (for nonresponse in accordance with § 2.57(a)(8)).

[84 FR 61827, Nov. 14, 2019]

Subpart E—Responses to Requests

SOURCE: 77 FR 76902, Dec. 31, 2012, unless otherwise noted.

§ 2.21 How will the bureau respond to requests?

(a) When the bureau informs you of its decision to comply with a request by granting, partially granting, or denying the request, it will do so in writing and in accordance with the deadlines in subpart D of this part. The bureau's written response will include a statement about the services offered by the FOIA Public Liaison. The bureau's written response will also include a statement about the services offered by

OGIS, using standard language that can be found at: <https://www.doi.gov/foia/news/guidance>.

(b) If the bureau determines that your request will take longer than 10 workdays to process, the bureau immediately will send you a written acknowledgment that includes the request's individualized tracking number and processing track (see § 2.15(e)). The acknowledgement may also include a brief description of the subject of your request.

[77 FR 76902, Dec. 31, 2012, as amended at 81 FR 11129, Mar. 3, 2016; 81 FR 92694, Dec. 20, 2016; 84 FR 61828, Nov. 14, 2019]

§ 2.22 How will the bureau grant requests?

(a) Once the bureau makes a determination to grant a request in full or in part, it must notify you in writing.

(b) The notification will inform you of any fees charged under subpart G of this part.

(c) The bureau will release records (or portions of records) to you promptly upon payment of any applicable fees (or before then, at its discretion).

(d) If the records (or portions of records) are not included with the bureau's notification, the bureau will advise you how, when, and where the records will be released or made available.

[77 FR 76902, Dec. 31, 2012, as amended at 81 FR 11129, Mar. 3, 2016]

§ 2.23 When will the bureau deny a request or procedural benefits?

(a) A bureau denies a request when it makes a decision that:

(1) A requested record is exempt, in full or in part;

(2) The request does not reasonably describe the records sought;

(3) A requested record does not exist, cannot be located, or is not in the bureau's possession and/or control; or

(4) A requested record is not readily reproducible in the form or format you seek.

(b) A bureau denies a procedural benefit only, and not access to the underlying records, when it makes a decision that:

(1) A fee waiver, or another fee-related issue, will not be granted; or

§ 2.24

(2) Expedited processing will not be provided.

(c) The bureau must consult with the Office of the Solicitor before it denies a fee waiver request or withholds all or part of a requested record (unless the Office of the Solicitor has expressly preapproved such a withholding).

[77 FR 76902, Dec. 31, 2012, as amended at 81 FR 11129, Mar. 3, 2016; 84 FR 61828, Nov. 14, 2019]

§ 2.24 How will the bureau deny requests?

(a) The bureau must notify you in writing of any denial of your request.

(b) The denial notification must include:

(1) The name and title or position of the person responsible for the denial, along with an office phone number or email address;

(2) A statement of the reasons for the denial;

(3) A reference to any FOIA exemption applied by the bureau to withhold records in full or in part, along with a statement that the bureau reasonably foresees that disclosure would harm an interest protected by the applied exemption(s) or disclosure is prohibited by law;

(4) An estimate of the volume of any records withheld in full or in part (for example, by providing the number of pages or some other reasonable form of estimation), unless the bureau notes that it does not have or could not locate responsive records or that including an estimate would harm an interest protected by an exemption used to withhold the records and the bureau explains this harm to you;

(5) The name and title of the Office of the Solicitor or Office of General Counsel attorney consulted (if the bureau is denying a fee waiver request or withholding all or part of a requested record); and

(6) A statement that the denial may be appealed under subpart H of this part and a description of the procedures in subpart H of this part.

[77 FR 76902, Dec. 31, 2012, as amended at 81 FR 11129, Mar. 3, 2016; 81 FR 92694, Dec. 20, 2016; 84 FR 61828, Nov. 14, 2019]

43 CFR Subtitle A (10–1–20 Edition)

§ 2.25 What if the requested records contain both exempt and non-exempt material?

If responsive records contain both exempt and nonexempt material, the bureau will consult with the Office of the Solicitor, as discussed in § 2.23(c). After consultation, the bureau will partially grant and partially deny the request by:

(a) Segregating and releasing the nonexempt information, unless the nonexempt material is so intertwined with the exempt material that disclosure of it would leave only meaningless words and phrases;

(b) Indicating on the released portion of the record the amount of information deleted and the FOIA exemption under which the deletion was made, unless doing so would harm an interest protected by the FOIA exemption used to withhold the information; and

(c) If technically feasible, indicating the amount of information deleted and the FOIA exemption under which the deletion was made at the place in the record where the deletion was made.

[77 FR 76902, Dec. 31, 2012, as amended at 81 FR 11129, Mar. 3, 2016]

Subpart F—Handling Confidential Information

SOURCE: 77 FR 76906, Dec. 31, 2012, unless otherwise noted.

§ 2.26 May submitters of possibly confidential information designate information as confidential when making Departmental submissions?

(a) The Department encourages, but does not require, submitters to designate confidential information in good faith (in other words, to identify specific information as information the submitter considers protected from disclosure under Exemption 4 of the FOIA, found at 5 U.S.C. 552(b)(4)), at the time of submission or reasonably soon thereafter.

(b) The designations discussed in paragraph (a) of this section assist the bureau in identifying what information obtained from the submitter is possibly